

AGENDA MEMO

CITY COUNCIL MEETING DATE: AUGUST 19, 2009

DEPARTMENT: PLANNING AND DEVELOPMENT

ITEM DESCRIPTION: VAR-33989 - APPLICANT/OWNER: SANARP TRUST

THIS ITEM WAS HELD IN ABEYANCE FROM THE JUNE 17, 2009 CITY COUNCIL MEETING AT THE REQUEST OF THE APPLICANT.

**** CONDITIONS ****

The Planning Commission (6-0 vote) and staff recommend DENIAL.

Planning and Development

1. This approval shall be void one year from the date of final approval, unless a business license has been issued to conduct the activity, if required, or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.

Public Works

2. Coordinate with the City Surveyor regarding recordation of a Reversionary Map for this site; comply with the recommendations of the City Surveyor.
3. Meet with the Flood Control Section of the Department of Public Works for assistance with establishing finished floor elevations and drainage patterns for this site prior to submittal of construction plans or the issuance of any building or grading permits, whichever may occur first. Provide and improve all drainageways as recommended.

**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a request for a Variance to allow an existing Accessory Structure (Class II) that was built without permits to exceed the square footage and height of the principle dwelling, as well as deviate from the required side-yard setback. Additionally, the applicant is requesting that the existing building remain aesthetically incompatible with the main dwelling. Since the existing Accessory Structure was constructed without building permits, it has been determined that the request for this Variance is a result of a self-imposed hardship. Staff recommends denial of this Variance request. If this request is denied the applicant has the choice to either rebuild the accessory structure to code or remove the existing structure.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc. and Property Sales</i>	
06/19/02	The City Council approved a request for a General Plan Amendment (GPA-0047-01) to amend portions of the Southeast Sector map of the General Plan in the general vicinity of the Charleston Boulevard/Rancho Drive intersection from SC (Service Commercial) to O (Office); from R (Rural Density Residential) to DR (Desert Rural Density Residential); from O (Office) to DR (Desert Rural Density Residential) and; from L (Low Density Residential) to DR (Desert Rural Density Residential) in accordance with the recommendations of the Rancho Charleston Land Use Study and Strategic Plan. The Planning Commission recommended denial of the request.
06/23/06	A deed was recorded for change of ownership.
10/30/08	A Code Enforcement case (#71185) was processed for a metal shed built without permits. This case is currently open.
05/14/09	The Planning Commission voted 6-0 to recommend DENIAL (PC Agenda Item #26/jb).
<i>Related Building Permits/Business Licenses</i>	
1955	Principle dwelling constructed
<i>Pre-Application Meeting</i>	
03/10/09	A pre-application meeting was held where the submittal requirements for a Variance to allow an existing accessory structure were discussed. Topics discussed included: <ul style="list-style-type: none">• building square-footage• height & aesthetics• building setbacks• Code enforcement history.
<i>Neighborhood Meeting</i>	
A neighborhood meeting was not required, nor was one held.	

Field Check	
04/09/09	Staff conducted a field check of the site and noted a well maintained single-family residence, with an existing accessory structure along the east property line in the rear yard.

Details of Application Request	
Site Area	
Gross Acres	0.94

Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Single-Family Residence	DR (Desert Rural)	R-E (Residence Estates)
North	Office Complex	O (Office)	O (Office)
South	Single-Family Residence	DR (Desert Rural)	R-E (Residence Estates)
East	Single-Family Residence	DR (Desert Rural)	R-E (Residence Estates)
West	Single-Family Residence	DR (Desert Rural)	R-E (Residence Estates)
	Single-Family Residence	DR (Desert Rural)	R-E (Residence Estates)

Special Districts/Zones	Yes	No	Compliance
Special Area Plan		X	N/A
Special Districts/Zones	Yes	No	Compliance
Special Purpose and Overlay Districts			
A-O Airport Overlay District – 175 feet	X		Y
Trails		X	N/A
Rural Preservation Overlay District	X		Y
Development Impact Notification Assessment		X	N/A
Project of Regional Significance		X	N/A

DEVELOPMENT STANDARDS

Las Vegas Zoning Code Section 19.08.040 :

Standard – Accessory Structure (Class II)	Required/Allowed	Provided	Compliance
Min. Setbacks			
• Rear	3 Feet	13 Feet	Y
• Side	3 Feet	2.25 Feet	N
• Principle Dwelling	6 Feet	58 Feet	Y
Max. Rear/Side Yard Coverage	50%	79%	N

Aesthetics	Compatible with Principle Dwelling	Ribbed Metal Paneling	N
Max. Building Height	Lesser of 2 stories or the height of the main building, whichever is less (13.5 Feet)	17 Feet	N

ANALYSIS

The request for this Variance is a result of a self-imposed hardship. The applicant constructed the accessory structure without first obtaining the required building permits. The permitting process would have included a review of the proposed structure for compliance with all applicable codes, and could have alleviated the need for a Variance. As such, the applicant has created a self-imposed hardship, and staff is recommending denial of the request.

FINDINGS

In accordance with the provisions of Title 19.18.070(B), Planning Commission and City Council, in considering the merits of a Variance request, shall not grant a Variance in order to:

1. Permit a use in a zoning district in which the use is not allowed;
2. Vary any minimum spacing requirement between uses;
3. Relieve a hardship which is solely personal, self-created or financial in nature.”

Additionally, Title 19.18.070L states:

“Where by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of enactment of the regulation, or by reason of exceptional topographic conditions or other extraordinary and exceptional situation or condition of the piece of property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardships upon, the owner of the property, a variance from that strict application may be granted so as to relieve the difficulties or hardship, if the relief may be granted without substantial detriment to the public good, without substantial impairment of affected natural resources and without substantially impairing the intent and purpose of any ordinance or resolution.”

No evidence of a unique or extraordinary circumstance has been presented, in that the applicant has created a self-imposed hardship by commencing construction of an Accessory Structure, prior to obtaining a building permit. An alternative design would allow conformance to the Title 19 requirements. In view of the absence of any hardships imposed by the site’s physical characteristics, it is concluded that the applicant’s hardship is preferential in nature, and it is thereby outside the realm of NRS Chapter 278 for granting of Variances.

PLANNING COMMISSION ACTION

There were three speakers opposed to this project at the Planning Commission Meeting.

NEIGHBORHOOD ASSOCIATIONS NOTIFIED 19

ASSEMBLY DISTRICT 9

SENATE DISTRICT 3

NOTICES MAILED 170 by City Clerk

APPROVALS 1

PROTESTS 8